IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2800 OF 2006

Maruti Dhondiba Ubhay ...Petitioner

V/s.
Maharashtra State Road Transport
Corporation Mumbai & Ors. ...Respondents

Mr.Shrishail Sakhare & Mrs. N.S. Sakhare for Petitioner.
Mr.Y.S. Shinde APP for the State.

CORAM : V.M. KANADE, J.
DATED : 26th OCTOBER, 2007.

P.C:-

1. Heard learned counsel for the Petitioner and learned APP for the State.

2. Petitioner is challenging the order passed by the Chief Judicial Magistrate, Solapur whereby complaint was dismissed by the Magistrate on the ground that no prima facie case was made out for issuance of process against the Accused U/s.379, 384 and 420 r/w 34 of IPC.

3. Learned counsel for the Petitioner has taken me to the impugned

order and also complaint which is filed by the Petitioner herein.

Brief facts are that the Petitioner was carrying on business on the open space allotted by the Respondent No.1 Maharashtra State Road Transport Corporation Mumbai. Petitioner was having stall of sugarcane juice and the Respondent No.1 was taking security deposit from the Petitioner. It is case of the Petitioner that renovation work was commenced by the Respondent No.1 and as a result, the Petitioner had to stop his business. It is further grievance of the Petitioner that since business had stopped, Respondent No.1. was not entitled to claim security deposit during the period when the said business had stopped. It is case of the Petitioner that in stead of paying security deposit which he has paid to the Respondent No.1, Respondent No.1 on the contrary claimed arrears of the security deposit amounting to Rs.94,001/-. He, therefore, filed a complaint U/s.379, 384 and 420 r/w 34 of IPC. Initially, learned Magistrate was pleased to direct to carry out investigation U/s.156(3) of Cr.P.C. Police, however, submitted a report stating therein that dispute between the parties was of a civil nature. Learned Magistrate independently heard the submissions made by the Petitioner and came to the conclusion that prima

facie, no evidence is on record to proceed against the Accused. Considering facts and circumstances of the case, in my view, no case is made out by the Petitioner for interfering with the impugned order passed by the Trial Court. Hence, Writ Petition is dismissed in limine.

V.M. KANADE, J.